

**Agenda Of The Meeting – Oversight Board for the Successor Agency to the  
Redevelopment Agency of the City of National City  
Council Chambers  
Civic Center  
1243 National City Boulevard  
National City, California  
Wednesday – October 17, 2012 – 3:00 P.M.**

**Open To The Public**

**Please complete a request to speak form prior to the commencement of the meeting and submit it to the Oversight Board Secretary.**

It is the intention of your National City Oversight Board to be receptive to your concerns in this community. Your participation in local government will assure a responsible and efficient City of National City. We invite you to bring to the attention of the Board Chairman any matter that you desire the National City Oversight Board to consider. We thank you for your presence and wish you to know that we appreciate your involvement.

**ROLL CALL**

**Pledge of Allegiance to the Flag by Chairman Ron Morrison**

**Public Oral Communications (Three-Minute Time Limit)**

**NOTE:** Pursuant to state law, items requiring National City Oversight Board action must be brought back on a subsequent National City Oversight Board Agenda unless they are of a demonstrated emergency or urgent nature.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**It Is Requested That All Cell Phones  
And Pagers Be Turned Off During The Meetings**

### **OVERSIGHT BOARD ACTIONS**

1. Approval of the Minutes of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City meeting on August 15, 2012.

### **PUBLIC HEARING**

2. Public comment session Pursuant to Health and Safety Code Section 34179.6(b) regarding the results of the Low and Moderate Income Housing Fund Review conducted Pursuant to Health and Safety Code Section 34179.5.

### **REPORTS**

3. Report on State Department of Finance's response to ROPS III and meet and confer requests

### **ADJOURNMENT**

Adjourn to the next regular adjourned meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency scheduled on October 24, 2012 at 3:00 p.m. in Council Chambers, Civic Center.

**MINUTES OF THE MEETING OF THE OVERSIGHT BOARD TO THE  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF  
THE CITY OF NATIONAL CITY**

**August 15, 2012**

This Meeting of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City was called to order at 3:03 pm by Chairman Ron Morrison.

**ROLL CALL**

Board Members Present: Aguirre, Carson, Hentschke, Morrison, Perri.  
Members Absent: Desrochers, Donaldson.

**PLEDGE OF ALLEGIANCE** by Chairman Ron Morrison

**PRESENTATIONS:** None

**OVERSIGHT BOARD ACTIONS**

1. **SUBJECT:** Approval of the Minutes of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of National City Tour on July 18, 2012.

**ACTION:** Motion by Hentschke, seconded by Perri to approve the minutes of the Oversight Board Meeting on July 18, 2012. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

2. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the Redevelopment Agency approving an Agreement with the City of National City to provide Project Management for and to construct the Coolidge Avenue Community Corridor Capital Improvement Project, in the amount not to exceed \$1,100,000. (Funded 2011 Tax Allocation Bond (CIP) fund). (Engineering)

**RECOMMENDATION:** Adopt the Resolution (Reso #2012-12)

**ACTION:** Motion by Carson, seconded by Perri to adopt the Resolution. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

3. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the Redevelopment Agency waiving the formal bid process and authorizing a California Multiple Award Schedule (CMAS) purchase for demolition of existing buildings, delivery, installation and utility hook-up for 4 new pre-fabricated restrooms; 2 for Kimball

Park and 2 for Las Palmas Park to Oregon Romtec, Inc. in the not to exceed amount of \$665,036.40 plus up to 4% (up to \$26,601.46) for required bonding costs. (Funded 2011 Tax Allocation Bond (CIP) fund). (Engineering)

**RECOMMENDATION:** Adopt the Resolution (Reso #2012-13)

**ACTION:** Motion by Perri, seconded by Aguirre to adopt the Resolution. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

4. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the Redevelopment Agency authorizing the Chairman to execute a Letter of Intent to the YMCA of San Diego County South Bay Branch of \$4.5 Million to commit bond funds for public improvements at Las Palmas Park. (Community Services)

**RECOMMENDATION:** Adopt the Resolution (Reso #2012-14)

**ACTION:** Motion by Hentschke, seconded by Carson to adopt the Resolution. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

5. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the Redevelopment Agency adopting the August 14, 2012 Recognized Obligations Payment Schedule (ROPS) for the period of January 1, 2013 through June 30, 2013. (Community Services)

**RECOMMENDATION:** Adopt the Resolution (Reso #2012-15)

**ACTION:** Motion by Carson, seconded by Perri to adopt the Resolution. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

6. **SUBJECT:** Resolution of the Oversight Board to the Successor Agency to the Community Development Commission as the Redevelopment Agency approving and authorizing the retention of a licensed accountant to perform services related to preparation of the due diligence review and related actions pursuant to California Health and Safety Code Section 34179.5. (Administrative Services)

**RECOMMENDATION:** Adopt the Resolution (Reso #2012-16)

**ACTION:** Motion by Carson, seconded by Perri to adopt the Resolution. Motion carried by the following vote, to wit: Ayes: Aguirre, Carson, Morrison, Perri and Hentschke. Absent: Desrochers, Donaldson.

## **ADJOURNMENT**

Adjourn to the next meeting of the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency to be held on September 19, 2012 at 3:00 p.m., Council Chambers – National City Civic Center, California.

The meeting adjourned at 3:35 p.m.

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Clerk

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Secretary

The foregoing minutes were approved at the Regular Meeting of August 15, 2012.

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Oversight Board Chairman

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO  
THE COMMUNITY DEVELOPMENT COMMISSION  
AS THE NATIONAL CITY REDEVELOPMENT AGENCY  
AGENDA STATEMENT**

**MEETING DATE:** October 17, 2012

**AGENDA ITEM NO. 2**

**ITEM TITLE:**

Public comment session Pursuant to Health and Safety Code Section 34179.6(b) regarding the results of the Low and Moderate Income Housing Fund Review conducted Pursuant to Health and Safety Code Section 34179.5.

**PREPARED BY:** Brad Raulston  
**PHONE:** 336-4256

**DEPARTMENT:**

**APPROVED BY:**



**EXPLANATION:**

Please see attached staff report.

**FINANCIAL STATEMENT:**

**ACCOUNT NO.**

**APPROVED:** \_\_\_\_\_ **Finance**

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

**ORDINANCE:** **INTRODUCTION:** ☐ **FINAL ADOPTION:** ☐

**STAFF RECOMMENDATION:**

**BOARD / COMMISSION RECOMMENDATION:**

**ATTACHMENTS:**

1. Notice of Public Comment
2. Independent Accountants Report

## **NOTICE OF PUBLIC COMMENT SESSION**

### **OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY**

**PLEASE TAKE NOTICE** that pursuant to Health and Safety Code Section 34179.6(b), the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency will hold a public comment session on **Wednesday, October 17, 2012, at 3:00 pm, in the City Hall Council Chambers at the City of National City, 1243 National City Blvd, National City, CA 91950** on the due diligence review results of the Successor Agency Low and Moderate Income Housing Fund. Specifically, any interested members of the public may comment on the amount of cash and cash equivalents and other assets in the Low and Moderate Income Housing Fund determined by the due diligence review to be available for allocation to taxing entities, prior to the Oversight Board's review, approval and transmittal to the Department of Finance and County Auditor-Controller the results of the review of the Successor Agency Low and Moderate Income Housing Fund no less than five business days after this Public Comment Session.

As required by Health and Safety Code Section 34179.5 the Oversight Board to the Successor Agency to the Community Development Commission as the National City Redevelopment Agency retained a licensed accountant to conduct a due diligence review of the Successor Agency's Low and Moderate Income Housing Fund. The purpose of this due diligence review was to account for the Low and Moderate Income Housing Fund, including cash, cash equivalents, physical assets, and land and determine what portion of the fund or funds is legally committed to low and moderate income housing and what portion is unrestricted and available for allocation to other taxing entities. The licensed accountant's due diligence review of the Low and Moderate Income Housing Fund is complete and the purpose of this public comment session is to allow any interested persons to comment on or question the determinations in the due diligence review prior to the Oversight Board's review and approval of the due diligence review and the net balances available for allocation to other taxing entities.

A copy of the due diligence review of the Low and Moderate Income Housing Fund may be obtained located on the City of National City's website at [www.nationalcityca.gov](http://www.nationalcityca.gov) or by calling 619-336-4250.



**Mayer Hoffman McCann P.C.**

**An Independent CPA Firm**

2301 Dupont Drive, Suite 200  
Irvine, California 92612  
949-474-2020 ph  
949-263-5520 fx  
www.mhm-pc.com

Oversight Board of the Successor Agency of the former Redevelopment Agency  
of the City of National City  
1243 National City Blvd  
National City, CA 91950

### **INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES**

We have performed the procedures enumerated below, which were agreed to by the Successor Agency of the former Redevelopment Agency of the City of National City (Successor Agency), the California Department of Finance, the California State Controller's Office, and the County Auditor-Controller's Office, solely to assist you in complying with the requirement for a due diligence review of the low and moderate income housing fund of the former Redevelopment Agency and the Successor Agency pursuant to Section 34179.5(c) of the California Health and Safety Code. Management of the Successor Agency is responsible for the Successor Agency's compliance with the California Health and Safety Code. This engagement to apply agreed-upon procedures was performed in accordance with the attestation standards established by the *American Institute of Public Accountants* for such engagements. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on the specified items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

Our procedures and results were as follows:

1. We obtained from the Successor Agency a listing of all assets (at their recorded book values) that were transferred from the former redevelopment agency to the Successor Agency on February 1, 2012. We agreed the amounts on this listing to account balances established in the accounting records of the Successor Agency.

**Results:** On February 1, 2012, \$17,102,218 of low and moderate income housing fund assets were transferred to the Successor Agency. See additional asset detail on EXHIBIT B.

2. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:
  - a. We obtained a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency to the city, county, or city and county that formed the redevelopment agency for the period from January 1, 2011 through January 31, 2012.

**Results:** The State Controller's Office has not completed the review of transfers. The low and moderate income housing fund of the redevelopment agency transferred \$1,008,485 to the redevelopment agency debt service fund to service the debt for the 1999 TAB and 2005 TAB approved by the redevelopment commission. The low and moderate income housing fund of the redevelopment agency transferred \$1,025,182 to the Community Development



Commission of the City of National City housing fund to service the debt for the 2011 TAB which was approved by the redevelopment commission. Total transfers were \$2,033,667 for the period January 1, 2011 through January 31, 2012.

- b. We obtained a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to the city, county, or city and county that formed the redevelopment agency for the period from February 1, 2012 through June 30, 2012.

Results: The Successor Agency transferred net amount of \$6,545,720 to the City of National City for the period February 1, 2012 through June 30, 2012. Transfers included accounts receivable of \$39,142 pertaining to activities prior to February 1, 2012, real property of \$360,000, and loans receivable of \$7,767,650, including deferred revenue associated with the loans of \$(1,621,072).

- c. For each transfer, we obtained the legal document that formed the basis for the enforceable obligation that required any transfer.

Results: For the transfer of \$39,142 made on February 1, 2012, there is no legal document forming the basis for the transfer. However, the transfer was made to reimburse the redevelopment agency of cash received after February 1, 2012. The transfers of real property and loans were allowed and were approved by the redevelopment commission and the Successor Agency board.

3. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:

- a. We obtained a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency to any other public agency or to private parties for the period from January 1, 2011 through January 31, 2012.

Results: There were no transfers for the period from January 1, 2011 through January 31, 2012 to any other public agency or private party.

- b. We obtained a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to any other public agency or private parties for the period from February 1, 2012 through June 30, 2012.

Results: There were no transfers for the period from February 1, 2012 through June 30, 2012 to any other public agency or private party.

- c. For each transfer, we obtained the legal document that formed the basis for the enforceable obligation that required any transfer.

Results: This step is not applicable.

4. We obtained from the Successor Agency a summary of the financial transactions of the Redevelopment Agency and the Successor Agency in the format set forth in the California State Controller's Office's procedures for the fiscal year ended June 30, 2010, the fiscal year ended June 30, 2011, the period July 1, 2011 through January 31, 2012, and the period February 1, 2012 through

June 30, 2012. For each period presented, we determined that the total of revenues, expenditures, and transfers accounted fully for the changes in equity from the previous fiscal period. We compared amounts in the schedule relevant to the fiscal year ending June 30, 2010 to the state controller's report filed for the Redevelopment Agency for that period.

Results: There were no exceptions as a result of our procedures. The schedule is presented at EXHIBIT B.

5. We obtained from the Successor Agency a listing of all assets of the Low and Moderate Income Housing Fund as of June 30, 2012. We also agreed the assets listed to recorded balances reflected in the accounting records of the Successor Agency.

Results: The listing of assets is included in EXHIBIT B. The only asset listed is cash. We obtained the Citywide bank reconciliation at June 30, 2012 and verified the cash balance in the low and moderate income housing fund agreed to the reconciled bank balance.

6. Obtain from the Successor Agency a listing of asset balances held on June 30, 2012 that are restricted for specific purposes and performed the following procedures:

- a. Unspent bond proceeds:

- i. We obtained the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures, amounts set aside for debt service payments, etc.).
- ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
- iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances.

Results: There are no low and moderate income housing unspent bond proceeds.

- b. Grant proceeds and program income that are restricted by third parties:

- i. We obtained the Successor Agency's computation of the restricted balances.
- ii. We traced individual components of this computation to related account balances in the accounting records, or to other supporting documentation.
- iii. We obtained from the Successor Agency a copy of the grant agreement that sets forth the restriction pertaining to these balances.

Results: There are no low and moderate income housing grant proceeds or program income.

- c. Other assets considered to be legally restricted:

- i. We obtained the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
- ii. We traced individual components of this computation to related account balances in the accounting records, or to other supporting documentation.
- iii. We obtained from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances.

Results: There are no other assets considered to be legally restricted.

- d. We attached the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report. For each restriction identified on these schedules, we indicated in the report the period of time for which the restrictions are in effect.

Results: This procedure is not applicable.

7. We obtained from the Successor Agency a listing of assets as of June 30, 2012 that are not liquid or otherwise available for distribution (such as capital assets, land held for resale, long-term receivables, etc.) and ascertained if the values are listed at either purchase cost (based on book value reflected in the accounting records of the Successor Agency) or market value as recently estimated by the Successor Agency.
  - a. If the assets listed at 7(a) were listed at purchase cost, we traced the amounts to a previously audited financial statement (or to the accounting records of the Successor Agency) and noted any differences.
  - b. For any differences noted in 7(b), we inspected evidence of disposal of the asset and ascertained that the proceeds were deposited into the Successor Agency trust fund.
  - c. If the assets listed at 7(a) were listed at recently estimated market value, we inspected the evidence (if any) supporting the value and noted the methodology used.

Results: There are no assets that are not liquid or otherwise available for distribution.

8. We performed the following procedures:

- a. For assets balance needed to be retained to satisfy enforceable obligations, we obtained from the Successor Agency an itemized schedule of asset balances (resources) as of June 30, 2012 that are dedicated or restricted for the funding of enforceable obligations and performed the following procedures:
  - i. We compared all information on the schedule to the legal documents that form the basis for the dedication or restriction of the resource balance in question.
  - ii. We compared all current balances to the amounts reported in the accounting records of the Successor Agency or to an alternative computation.
  - iii. We compared the specified enforceable obligations to those that were included in the final Recognized Obligation Payment Schedule approved by the California Department of Finance.

- iv. We attached as an exhibit to the report the listing obtained from the Successor Agency. We also identified in the report any listed balances for which the Successor Agency was unable to provide appropriate restricting language in the legal document associated with the enforceable obligation.

Results: There are no restricted resources held by the Successor Agency at June 30, 2012.

- b. For future revenues together with balances dedicated or restricted to an enforceable obligation are insufficient to fund future obligation payments and thus retention of current balances is required, we obtained from the Successor Agency a schedule of approved enforceable obligations that included a projection of the annual spending requirements to satisfy each obligation and a projection of the annual revenues available to fund those requirements and performed the following procedures:
  - i. We compared the enforceable obligations to those that were approved by the California Department of Finance.
  - ii. We compared the forecasted annual spending requirements to the legal document supporting each enforceable obligation by obtaining from the Successor Agency its assumptions relating to the forecasted annual spending requirements and disclose in the report major assumptions associated with the projections.
  - iii. For the forecasted annual revenues, we obtained the assumptions for the forecasted annual revenues and disclosed the major assumptions associated with the projections.

Results: It is not practical to perform this procedure for low and moderate income housing obligations without performing an analysis of the entire Successor Agency. This procedure will be performed with the due diligence report that is due in December 2012.

- c. For projected property tax revenues and other general purpose revenues that were received by the Successor Agency are insufficient to pay bond debt service payments, we obtained from the Successor Agency a schedule demonstrating this insufficiency and applied the following procedures to the information reflected in that schedule:
  - i. We compared the timing and amounts of bond debt service payments to the related bond debt service schedules in the bond agreement.
  - ii. We obtained the assumptions for the forecasted property tax revenues and disclose major assumptions associated with the projections.
  - iii. We obtained the assumptions for the forecasted other general purpose revenues and disclose major assumptions associated with the projections.

Results: This procedure is not applicable.

- d. If procedures, A, B, or C were performed, we calculated the amount of current unrestricted balances necessary for retention in order to meet the enforceable obligations by performing the following procedures:

- i. We combined the amount of identified current dedicated or restricted balances and the amount of forecasted annual revenues to arrive at the amount of total resources available to fund enforceable obligations.
- ii. We reduced the amount of total resources available by the amount forecasted for the annual spending requirements.

Results: This procedure is not applicable.

9. For cash balances as of June 30, 2012 that need to be retained to satisfy obligations on the Recognized Obligation Payment Schedule (ROPS) for the period of July 1, 2012 through June 30, 2013, we obtained a copy of the final ROPS for the period of July 1, 2012 through December 31, 2012 and a copy of the final ROPS for the period January 1, 2013 through June 30, 2013.

Results: EXHIBIT D demonstrates that all current cash balances are needed to be retained to pay enforceable obligations as they become due through June 30, 2013. Because it is not possible to split the RPTTF revenue between housing and non-housing, EXHIBIT D includes enforceable obligations for both housing and non-housing. We reviewed the correspondence received from the County of San Diego and agreed it to the projected property tax from RPTTF for ROPS 2 and ROPS 3 without exception. For housing obligations, we compared the total obligation for the period January 1, 2013 to June 30, 2013 to ROPS 3 without exception. The amounts listed for the period July 1, 2012 to December 31, 2012 agrees to the total reported on ROPS 2. We compared the forecasted annual spending requirements to the legal document supporting each enforceable obligation. We compared the total successor agency obligations to the total obligations on ROPS 2 and ROPS 3 and noted that the amounts shown in the exhibit do not exceed the amounts reported on ROPS 2 and ROPS 3.

10. We have included a schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities.

Results: See EXHIBIT A.

11. We obtained a representation letter from management acknowledging their responsibility for the data provided to the practitioner and the data presented in the report or in any attachments to the report.

Results: No exceptions noted as a result of this procedure.

This letter is intended solely for the information and use of the Oversight Board of the Successor Agency of the former Redevelopment Agency of the City of National City, the Successor Agency of the former Redevelopment Agency of the City of National City, the California Department of Finance, the California State Controller's Office, and the County of San Diego's Auditor-Controller's Office and is not intended to be and should not be used by anyone other than those specified parties.

*Mayor Hoffman McLean P.L.*

Irvine, California  
October 16, 2012

SUCCESSOR AGENCY OF THE NATIONAL CITY REDEVELOPMENT AGENCY  
Summary of Balances Available for Allocation of Affected Taxing Entities  
June 30, 2012

SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION TO AFFECTED TAXING ENTITIES

Total amount of low mod housing assets held by the successor agency as of June 30, 2012	\$ 8,418,206	EXHIBIT B
Less assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments.	-	
Less assets that are not cash or cash equivalents (i.e. physical assets)	-	
Less balances that are legally restricted for the funding of an enforceable obligation (net of projected annual revenues available to fund those obligations)	-	
Less balances needed to satisfy ROPS for the current fiscal year	(15,873,200)	EXHIBIT D
Less balances needed to satisfy ROPS for future fiscal years <sup>(1)</sup>	-	
Add the amount of any assets transferred to the city for which an enforceable obligation with a third party requiring such transfer and obligating the use of the transferred assets did not exist	-	
Amount to be remitted to county for disbursement to taxing entities	<u>\$ (7,454,994)</u>	

*Note that separate computations are required for the Low and Moderate Income Housing Fund held by the Successor Agency and for all other funds held by the Successor Agency.*

NOTES: For each line shown above, an exhibit should be attached showing the composition of the summarized amount.

If the review finds that there are insufficient funds available to provide the full amount due, the cause of the insufficiency should be demonstrated in a separate schedule.

*(1) This balance will be calculated as part of the overall redevelopment agency due diligence review due in December 2012 because it is not practical to separately identify low and moderate income specific RPTTF funding.*

SUCCESSOR AGENCY OF THE FORMER NATIONAL CITY REDEVELOPMENT AGENCY  
Summary of Financial Transactions - Low/Mod  
6/30/2012

	Redevelopment Agency 12 Months Ended 6/30/2010	Redevelopment Agency 12 Months Ended 6/30/2011	Redevelopment Agency 7 Months Ended 1/31/2012	Successor Agency 5 Months Ended 6/30/2012
<b>Assets:</b>				
Cash	\$ 7,598,805	9,586,932	8,928,640	8,413,601
Accounts receivable	-	30,565	39,142	-
Property tax receivable	49,691	37,191	-	-
Accrued interest receivable	12,544	10,043	6,786	4,605
Loans receivable	12,757,954	7,767,650	7,767,650	-
Land held for resale	360,000	360,000	360,000	-
<b>Total Assets</b>	<b>20,778,994</b>	<b>17,792,381</b>	<b>17,102,218</b>	<b>8,418,206</b>
<b>Liabilities:</b>				
Accounts payable	12,346	62,992	77,829	528,038
Other liabilities	2,790	3,670	1,621,072	-
Deposits payable	-	-	-	-
Due to other governments	-	-	-	-
Due to other funds	-	-	-	-
Advances from other funds	-	-	-	-
Deferred revenue	7,889,265	1,621,072	-	-
<b>Total Liabilities</b>	<b>7,904,401</b>	<b>1,687,734</b>	<b>1,698,901</b>	<b>528,038</b>
<b>Equity</b>	<b>12,874,593</b>	<b>16,104,647</b>	<b>15,403,317</b>	<b>7,890,168</b>
<b>Total Liabilities + Equity</b>	<b>\$ 20,778,994</b>	<b>17,792,381</b>	<b>17,102,218</b>	<b>8,418,206</b>
<b>Total Revenues:</b>	<b>\$ 3,060,735</b>	<b>3,045,036</b>	<b>1,603,314</b>	<b>17,666</b>
<b>Total Expenditures/Expenses:</b>	<b>670,912</b>	<b>384,247</b>	<b>270,977</b>	<b>985,095</b>
<b>Total Transfers:</b>	<b>(506,364)</b>	<b>(861,864)</b>	<b>(2,033,667)</b>	<b>(6,545,720)</b>
<b>Net change in equity</b>	<b>1,883,459</b>	<b>1,798,925</b>	<b>(701,330)</b>	<b>(7,513,149)</b>
<b>Beginning Equity:</b>	<b>10,991,134</b>	<b>12,874,593</b>	<b>16,104,647</b>	<b>15,403,317</b>
<b>Equity Adjustment</b>	<b>-</b>	<b>1,431,129</b>	<b>A -</b>	<b>-</b>
<b>Ending Equity:</b>	<b>\$ 12,874,593</b>	<b>\$ 16,104,647</b>	<b>\$ 15,403,317</b>	<b>\$ 7,890,168</b>

A There was a prior period adjustment in 2011 to adjust notes receivable for notes previously not recorded and to adjust the balances for allowance for doubtful accounts.

**EXHIBIT C**

**SUCCESSOR AGENCY OF THE FORMER NATIONAL CITY REDEVELOPMENT AGENCY**  
**Transfers to the Community Development Commission of City of National City**  
**6/30/2012**

<u>Asset/Liability Transferred</u>	<u>Transfers from 2/1/2012- 6/30/2012</u>	<u>Approved by CA DOF</u>	<u>Reason for Transfer</u>
Real property	\$ 360,000.00	Yes	For ongoing housing activities administered by the City.
Loans receivable	7,767,650.00	Yes	For ongoing housing activities administered by the City.
Accounts receivable	39,142.00	No <sup>(1)</sup>	For ongoing housing activities administered by the City.
Deferred Revenue	<u>(1,621,072.00)</u>	n/a	For ongoing housing activities administered by the City.
Total Transfers	<u>\$ 6,545,720.00</u>		

<sup>(1)</sup> *Not listed on the Housing Asset Listing submitted to the California Department of Finance.*  
*n/a - not applicable*



**SUCCESSOR AGENCY OF THE NATIONAL CITY REDEVELOPMENT AGENCY**  
**Projected Funding and Obligations**

	RPTTF Distribution Date	ROPS 2 July - Dec 2012 1-Jun-12	ROPS 3 Jan - June 2013 2-Jan-13
<b>SA Funding Sources:</b>			
<b>Non-Housing:</b>			
Projected Property Tax from RPTTF (1)		5,493,592	6,160,399
Less: Est Admin Fees and pass-throughs (1)		(917,520)	(809,858)
Net Projected RPTTF available		4,576,072	5,350,541
Add'l RORF (non-housing) cash on hand at beginning of period		478,678	(12,126,973)
Revenue from interest and rents		50,000	50,000
<b>Total Non-Housing</b>		<b>5,104,750</b>	<b>(6,726,432)</b>
<b>Housing:</b>			
LMIHF Revenue (Investment earnings)		10,000	-
<b>Total Housing</b>		<b>10,000</b>	<b>-</b>
<b>Total SA Funding Sources</b>		<b>5,114,750</b>	<b>(6,726,432)</b>
<b>Less Obligations:</b>			
<b>Non-housing obligations: (2)</b>			
True-up payment - July 12, 2012 (3)		(4,272,833)	-
Various non-housing capital projects		(769,747)	(50,000)
Bond debt service		(5,982,523)	(1,940,070)
CYAC vs CDC		(1,000,000)	(1,000,000)
Sewer Fund Loan Repayment (last pmt 6/2013)		-	(420,000)
Loan Agreement with JPFA (police facility)		(320,000)	-
Admin Cost		(459,220)	(249,000)
Legal services		(628,965)	(335,600)
General Property Management		-	(30,000)
CDC Property Maintenance		(127,068)	(37,710)
Other Professional Services		(53,799)	(189,388)
<b>Total Non-Housing Obligations</b>		<b>(13,614,155)</b>	<b>(4,251,768)</b>
<b>Housing Obligations:</b>			
WI-TOD housing Project		(3,627,568)	(4,895,000)
<b>Total Housing Obligations</b>		<b>(3,627,568)</b>	<b>(4,895,000)</b>
<b>Total SA Obligations</b>		<b>(17,241,723)</b>	<b>(9,146,768)</b>
<b>Net of obligations (over)/under available funding</b>		<b>(12,126,973)</b>	<b>(15,873,200)</b>

**Notes**

1. Property tax, admin fees and pass through payments for ROPS 2 are the actual amounts reported by the County of San Diego at the time of the June 1, 2012 RPTTF distribution. The ROPS 3 amounts are based on estimates provided by the County on Oct. 1, 2012.

2. Non-housing Obligations were not reviewed as a part of this due diligence review. However, amounts reported on this schedule do not exceed amounts reported on ROPS 2 and 3.

3. Not a line item in ROPS 2, but shown here because it was an expense that occurred during the ROPS 2 period that affects the assets and cash of the SA.

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO  
THE COMMUNITY DEVELOPMENT COMMISSION  
AS THE NATIONAL CITY REDEVELOPMENT AGENCY  
AGENDA STATEMENT**

**MEETING DATE:** October 17, 2012

**AGENDA ITEM NO.** 3

**ITEM TITLE:**

Staff Report on State Department of Finance's response to ROPS III and Meet and Confer requests.

**PREPARED BY:** Brad Raulston, Executive Director

**DEPARTMENT:** Community Services

**PHONE:** 336-4256

**APPROVED BY:** 

**EXPLANATION:**

A letter dated October 7, 2012 was received via email from the Department of Finance and opened on October 8, 2012 noting several items which the DOF are disallowing as enforceable obligations and/or classifying as administrative expenses. The Successor Agency disputes the findings and chooses to exercise its right to request a Meet and Confer meeting, per HSC Section 34177(m), which states requests must be made within five business days of the date of the Department of Finance's determination letter.

**FINANCIAL STATEMENT:**

**APPROVED:** \_\_\_\_\_ **Finance**

**ACCOUNT NO.** Pursuant to AB 1X 26.

**APPROVED:** \_\_\_\_\_ **MIS**

**ENVIRONMENTAL REVIEW:**

**ORDINANCE:** INTRODUCTION: ☐

**FINAL ADOPTION:** ☐

**STAFF RECOMMENDATION:**

**BOARD / COMMISSION RECOMMENDATION:**

Not Applicable.

**ATTACHMENTS:**

1. Letter from Department of Finance dated October 7, 2012
2. Meet and Confer Request Form



**DEPARTMENT OF  
FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-2706 ■ WWW.DOF.CA.GOV

October 7, 2012

Brad Raulston, Executive Director  
National City  
1243 National City Blvd.  
National City, CA 91950

Dear Mr. Raulston:

**Subject: Recognized Obligation Payment Schedule**

Pursuant to Health and Safety Code (HSC) section 34177 (m), the Successor Agency for the Community Development Commission as the National City RDA (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 16, 2012 for the period of January through June 2013. Finance has completed its review of your ROPS III, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligation(s):

- Item No. 86 – Loan from Sewer Fund in the amount of \$760,000. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable. This shall remain the case until and unless a finding of completion is issued by the Department of Finance and the oversight board makes a finding that the loan was for legitimate redevelopment purposes pursuant to HSC section 34191.4 (b). Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on this ROPS.
- Items No. 10, 11, 43, 57, 94, and 95 in the amount of \$12.7 million. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items have not yet been awarded. Finance notes bond proceeds as the requested funding source for item numbers 43, 57, 94, and 95. Upon receiving a Finding of Completion from Finance, these items may become enforceable pursuant to HSC section 34191.4 (c). Until then, they are not enforceable obligations and not authorized for payment.
- Item No. 91 – July through December 2012 funding shortfall in the amount of \$4 million does not meet the definition of an enforceable obligation. While Finance may have approved RPTTF funding that exceeded the amount available, the ability to fund items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF. HSC section 34173 (h) allows for a city to loan funds to a successor for administrative costs and enforceable obligations, and put the

repayment of these loans on the subsequent ROPS. This does not appear to be the case for this item. Additionally, it is not evident that this item is tied to a specific enforceable obligation or obligations, but merely a plug to account for the difference between what was approved by Finance and what was actually received. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

- Item No. 93 – request to replenish reserves and fund balances from July 2012 True Up payment in the amount of \$4.27 million. Requesting funds to reimburse unfunded obligations of the former Redevelopment Agency for a period that occurred prior to the dissolution of redevelopment is not an enforceable obligation. The July 2012 True Up process was to collect residual pass-through payments owed to the affected taxing entities for the January through June 2012 period, not to cause shortfalls in funding for the July through December 2011 period expenses. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on this ROPS.

In addition, replenishing reserves is not necessary as all unencumbered reserve balances will be remitted to the affected taxing entities through the statutorily required Due Diligence Reviews pursuant to HSC section 34179.5.

- Item No. 99 in the amount of \$2 million for a pending legal settlement. HSC 34171 (d) outlines characteristics of enforceable obligations and does not recognize reserves set aside as enforceable obligations other than for bond indebtedness. Therefore the \$1 million reserve for an anticipated future settlement is not enforceable. Since the statute does not currently recognize contingent or unknown obligations, the creation of this reserve is not an enforceable obligation and not eligible for RPTTF funding.
- Claimed administrative costs exceed the allowance by \$207,526. HSC section 34171 (b) limits fiscal year 2012-13 administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$266,018 in administrative expenses. The county auditor-controller did not distribute administrative costs for the July through December 2012 period, thus leaving a balance of \$266,514 available. Although \$249,000 is claimed for administrative cost, items 88, 89, 90, 101, 126, 127, 133, 134, 135, 136, 138, 139, and 144 totaling \$225,040 are considered general administrative expenses and should be counted toward the cap. Therefore, \$207,526 of excess administrative cost claimed is not allowed.

HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However since Item No. 31 relates to general legal representation and not specifically to bringing or contesting a legal action in court, it is considered an administrative expense.

Except for item(s) denied in whole or in part as enforceable obligation(s) as noted above, Finance is approving the remaining items listed in your ROPS III. If you disagree with the determination with respect to any items on your ROPS III, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

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The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$4,574,242 as summarized below:

<b>Approved RPTTF Distribution Amount</b>	
<b>For the period of January through June 2013</b>	
Total RPTTF funding requested for obligations	\$ 14,221,104
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item No. 86	420,000
Item No. 91	3,995,503
Item No. 93	4,272,833
Item No. 99	1,000,000
Item No. 88	30,000
Item No. 89	30,000
Item No. 90	18,000
Item No. 101	30,000
Item No. 126	20,000
Item No. 127	25,000
Item No. 133	414
Item No. 134	3,600
Item No. 135	1,200
Item No. 136	126
Item No. 138	51,000
Item No. 139	3,200
Item No. 144	12,500
Total approved RPTTF for enforceable obligations	\$ 4,307,728
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	266,514
<b>Total RPTTF approved:</b>	<b>\$ 4,574,242</b>
<b>Administrative Cost Calculation</b>	
Total RPTTF for the period July through December 2012	\$ 4,576,072
Total RPTTF for the period January through June 2013	4,307,728
<b>Total RPTTF for fiscal year 2012-13:</b>	<b>\$ 8,883,800</b>
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	266,514
Administrative allowance for the period of July through December 2012	-
<b>Allowable RPTTF distribution for administrative cost for ROPS III:</b>	<b>\$ 266,514</b>

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

Please refer to the ROPS III schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS III Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%20III%20Forms%20by%20Successor%20Agency/).


All items listed on a future ROPS are subject to a subsequent review. An item included on a future ROPS may be denied even if it was not questioned from the preceding ROPS. The amount available from the RPTTF is the same as the property tax increment that was available

Mr. Raulston  
October 7, 2012  
Page 4

prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

Please direct inquiries to Robert Scott, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Juan Perez, Senior Auditor and Controller Manager, San Diego County



## MEET AND CONFER REQUEST FORM

**Instructions:** Please fill out this form in its entirety to initiate a Meet and Confer session. Additional supporting documents may be included with the submittal of this form—as justification for the disputed item(s). Upon completion, email a PDF version of this document (including any attachments) to:

Redevelopment\_Administration@dof.ca.gov

The subject line should state “[Agency Name] Request to Meet and Confer”. Upon receipt and determination that the request is valid and complete, the Department of Finance (Finance) will contact the requesting agency within ten business days to schedule a date and time for the Meet and Confer session.

To be valid, all Meet and Confer requests must be specifically related to a determination made by Finance and submitted within the required statutory time frame. The requirements are as follows:

- **Housing Asset Transfer** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34176 (a) (2).
- **Due Diligence Review** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter, and no later than **November 16, 2012** for the Low and Moderate Income Housing Fund due diligence review per HSC Section 34179.6 (e).
- **Recognized Obligation Payment Schedule (ROPS)** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34177 (m).

Agencies should become familiar with the Meet and Confer Guidelines located on Finance’s website. Failure to follow these guidelines could result in termination of the Meet and Confer session. Questions related to the Meet and Confer process should be directed to Finance’s Dispute Resolution Coordinator at (916) 445-1546 or by email to Redevelopment\_Administration@dof.ca.gov.

### AGENCY (SELECT ONE):

☒ Successor Agency      ☐ Housing Entity

**AGENCY NAME:** Successor Agency to Community Development Commission as the National City Redevelopment Agency

### TYPE OF MEET AND CONFER REQUESTED (SELECT ONE):

☐ Housing Assets Transfers      ☐ Due Diligence Reviews      ☒ ROPS Period 3

**DATE OF FINANCE’S DETERMINATION LETTER:** October 7, 2012

### REQUESTED FORMAT OF MEET AND CONFER SESSION (SELECT ONE):

☒ Meeting at Finance      ☐ Conference Call

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## DETAIL OF REQUEST

- A. **Summary of Disputed Issue(s)** *(Must be specific.)*  
See attached
- B. **Background/History** *(Provide relevant background/history, if applicable.)*  
See attached
- C. **Justification** *(Provide additional attachments to this form, as necessary.)*  
See attached



**1. Item No. 86 – Loan from Sewer Fund in the amount of \$760,000.**

**A. Summary of Dispute:** We disagree that the repayment of this loan is not an enforceable obligation. It was an agreement that was entered into in good faith between the City of National City and the Community Development Commission of National City in June of 2010. We expect to qualify for a finding of completion by the spring of 2013, which is during the ROPS III period, and seek to be prepared, subject to Oversight Board approval, to make the scheduled payment on a timely basis. We therefore request that this item remain on the ROPS III subject to the finding of completion and Oversight Board approval.

**B. Background:** In Fiscal Year 2010-11 the City of National City undertook a \$4.0 million street resurfacing program that was funded in part by a \$1.5 million loan from the Sewer Fund, an enterprise fund of the City of National City. The Community Development Commission of National City committed a total of \$771,250 of tax increment funds towards the street resurfacing project in the form of loan repayments to the Sewer Fund over a three year period.

**C. Justification:** Delaying the payment to a future ROPS period will incur additional interest expense and put a further strain on the Successor Agency's projected negative cash position.

**2. Items No. 10 and 11 – Purchase of replacement yard and associated relocation costs for WI-TOD project**

**A. Summary of Dispute:** The acquisition of a public works yard replacement site and the relocation costs associated with it are integral to the WI-TOD project and are conditions in the recognized DDA. If line items 10 & 11 are disallowed, it will impair the DDA contract and cause severe harm to both the project and the neighborhood that expects this project to break ground within a year.

**B. Background:** The Paradise Creek Remediation and Westside Infill Transit Oriented Development (WI-TOD) project is an affordable housing project to be built on the site of the National City public works yard adjacent to a light rail station. The project has received state and national recognition as a model for smart growth. The WI-TOD project is the direct result of eight (8) years of community involvement by residents of the Westside neighborhood. WI-TOD is intended to be the catalyst for overall neighborhood change through the Westside Specific Plan (the City's approved plan for the area).

The key local funding comes from redevelopment bond proceeds and accumulated fund balance in the LMIHF. Line items 5-18 on ROPS III are all components of the WI-TOD project and only line items 10 & 11, the relocation costs for the public works yard, have been disallowed. The entire project is the subject of a recognized contract, a disposition and development agreement, with a third party.

Under the Disposition and Development Agreement (DDA) signed on June 21, 2011, between the Community Development Commission (CDC-RDA) and Paradise Creek Partners, L.P., the Community Development Commission of National City is obligated to complete and pay for the Public Works yard relocation and environmental remediation of the subject site. Environmental remediation **cannot** start until the Public Works yard relocation is complete. Therefore, all relocation activities are **integral** to the CDC-RDA's ability to meet its obligations under the DDA.

Over the past four years, the CDC-RDA and the WI-TOD developer have secured significant financing commitments from highly competitive sources totaling over \$41 million – more than 50% of the funds required for successful completion of the WI-TOD project. The outstanding funding pieces are the CDLAC tax-exempt bonds and the federal Low Income Housing Tax Credit, which are projected to be in place in 2013. Some of these funding sources are in jeopardy as the redevelopment dissolution process takes time that was not factored into the project schedule.

The CDC-RDA and the WI-TOD development team have assembled an impressive level of community involvement, financing commitments, environmental review and land use approvals. After over eight (8) years of thoughtful planning, the Westside community is less than one (1) year away from breaking ground on Paradise Creek remediation – **a national and state priority** – and embarking on a transit-oriented redevelopment that will transform the neighborhood.

**C. Justification:** Under the Disposition and Development Agreement (DDA) signed on June 21, 2011, between the CDC-RDA and Paradise Creek Partners, L.P., the CDC-RDA is obligated to complete and pay for the Public Works yard relocation and environmental remediation of the subject site. Environmental remediation **cannot** start until the Public Works yard relocation is complete. Therefore, all relocation activities are **integral** to the CDC-RDA's ability to meet its obligations under the DDA.

These obligations can be found in the following DDA Sections:

1. Section 4.4 (d): Environmental remediation must be completed by the CDC-RDA
2. Section 4.4 (f): Environmental remediation must be completed by the CDC-RDA
3. Section 4.4 (g): CDC-RDA to complete environmental remediation before Developer's site acquisition
4. Section 4.4 (j): Remediation costs to be separate from Project Costs **AND** if Developer must complete a portion of the scope under the Site Preparation Plan (SPP), the CDC-RDA is obligated to pay for these costs.
5. 11.6 **Conditions for Developer's Benefit for Phase I.** Developer's obligation to ground lease the Phase I Parcel from Commission shall be subject to satisfaction of the following conditions precedent:
  - (n) **Site Clearance.** All improvements have been removed from the Phase I Parcel, including all subsurface elements that must be removed to permit construction of the Phase I Improvements.
6. 12.6 **Conditions for Developer's Benefit for Phase II.** Developer's obligation to ground lease the Phase II Parcel from Commission shall be subject to satisfaction of the following conditions precedent:
  - (m) **Site Clearance.** All improvements have been removed from the Phase II Parcel, including all subsurface elements that must be removed to permit construction of the Phase II Improvements.

The acquisition of a public works yard replacement site and the relocation costs associated with it (ROPS III items 10 & 11) are vital to the WI-TOD project and the recognized DDA and will impair the DDA contract if not recognized as enforceable obligations by DOF.

### **3. Items No. 43, 57, 94 and 95 – Bond-proceeds projects**

A. Summary of Dispute: We understand that under HSC section 34163 (b) the Successor Agency is currently prohibited from entering into contracts for services, construction or other activities regardless of the funding source, which in this case is bond proceeds from a 2011 issuance. We also understand that these items may become enforceable obligations upon receiving a finding of completion from DOF, followed by Oversight Board approval. We expect to qualify for a finding of completion by the spring of 2013, which is during the ROPS III period, and seek to be prepared, subject to Oversight Board approval, to commence construction on these projects at that time. We request that these items remain on the ROPS III subject to the finding of completion and Oversight Board approval.

B. Background: Bonds in the amount of \$39.66 million for these and other community improvement and housing projects listed on the ROPS were issued in March, 2011.

C. Justification: The Successor Agency is committed to delivering completed projects to the residents of National City as expeditiously as possible in accordance with the plans of the CDC-RDA and terms of the 2011 tax allocation bond issuance. It is financially infeasible to defease the bonds. The bonds require the CDC-RDA to carry out the projects in a timely manner pursuant to tax laws. Allowing these four items to remain on the ROPS III on a qualified basis will assist in meeting those commitments.

### **4. Item 93 – Request to Replenish Reserves and Fund balances from July 2012 True Up payment**

A. Summary of Dispute: The Successor Agency had to use funds designated for other obligations to make the DOF mandated true-up payment. To meet those ongoing obligations, those funds must be replenished.

B. Background: The monies characterized by DOF as the true-up payment were not RPPTF at the time they were paid to the then existing Redevelopment Agency. Pursuant to AB26, the then Redevelopment Agency paid enforceable obligations from the tax increment monies, based upon the approved EOPS. Health & Safety Code section 34169(a), (b), and (f) required the then Agency to pay enforceable obligations until February 1, 2012. The then Redevelopment Agency used funds paid during the November through January time period on enforceable obligations identified and approved on the EOPS. After February 1, 2012, the Successor Agency was obligated to continue paying enforceable obligations pursuant to the EOPS and the eventually approved ROPS 1. Accordingly, there was no residual balance to remit to the state. The Successor Agency, however, did pay the demanded amount, under protest, even though there was no residual balance to remit. In order to make the true-up payment, funds obligated to enforceable obligations had to be used to make the payment. Further, because there was no residual balance, the amount of the true-up payment negated all but about \$300,000 of the June 1, 2012 distribution from the RPTTF. Successor Agency cash was further diminished by \$5.8 million in late July as a result of making required debt service payments on bonds. The Successor Agency was forced to use cash in the LMIHF to meet these requirements, leaving an insufficient amount available for other enforceable obligations. In an attempt to rectify this situation, ROPS III item 93 was submitted.

The alternative approach to satisfying the intent of ROPS III item 93 would be to request that RPTTF funds be allowed for certain of the obligations approved in line items 5-18 that were to have come from balances in the LMIHF. Prior to the DOF mandated true-up payment, the Successor Agency had sufficient funds to meet the obligations for the WI-TOD project by using bond proceeds and accumulated amounts in the LMIHF. Due to the true-up payment, the depleted LMIHF no longer has the necessary cash on hand to meet its obligations.

C. Justification: Health & Safety Code section 34167(f) states that there is not to be an interruption of the tax increment to pay enforceable obligations. Not recognizing the disruption of the flow (the true-up) impairs the Successor Agency's ability to pay enforceable obligations, which is inconsistent with this code provision. The monies being identified on line item 93 directly correlate to previously approved enforceable obligations, for which the cash flow was interrupted by the DOF. The Agency is not replenishing reserves, such as those allowed for bond funds, but rather replenishing the cash balances for funds identified for approved enforceable obligations. The effect of using cash on hand to pay for the true-up has caused low-mod funds to be depleted. The low-mod funds are fully committed via a Disposition and Development Agreement, which is a recognized enforceable obligation (See, WI-TOD, lines 5-18).

The Successor Agency is searching for an acceptable method to replenish the cash necessary to meet its obligations and seeks the DOF's assistance in resolving this matter.

**5. Item 99 – Pending legal settlement: CYAC v CDC – Amount on Appeal**

A. Summary of Dispute: We disagree with DOF's determination that this is requested as a reserve for an anticipated future settlement and therefore not an enforceable obligation.

B. Background: The case began in 2007 and resulted in an adverse decision against the former redevelopment agency via a statement of decision dated April 20, 2011. Thereafter, on November 22, 2011, the court awarded petitioners' attorneys' fees totaling \$ 1,991,169.25. The decision and award of fees were appealed. In addition, petitioners cross-appealed the causes of actions in which they did not prevail. The opening brief was recently filed with the court of appeal. Respondent briefs, cross-appellant briefs, and reply briefs remain due. Given the timing of the briefs, a decision from the court of appeal is expected during the ROPS 3 time period. Accordingly, the amount of the petitioners' attorneys' fees will be part of the appellate court's ruling. As of today, there is an award of attorneys' fees in the approximate amount of \$2M. The award is on appeal with a decision anticipated during ROPS 3.

C. Justification: Health and Safety Code section 34171(d)(1)(D) includes judgments or settlements by a court of law as an enforceable obligation. This item falls within that definition.

**6. Item 89 – Legal Services for Oversight Board**

A. Summary of Dispute: We disagree that this item should be subject to the administrative cost allowance cap and we believe the law is being applied incorrectly.

B. Background: The Oversight Board sought outside legal counsel to advise them. The OB directed the SA to solicit proposals for such representation and subsequently approved the hiring of a firm.

C. Justification: Health and Safety Code section 34179(c) provides that the Successor Agency "shall pay for the costs of meetings of the oversight board and may include such costs in its administrative budget." Thus, the SA is required to pay for the costs of the meeting, which includes the outside counsel. 34179(c) is a state mandate. 34179(c) does not, however, state which source of funds shall be used or that the funds used shall be subject to the administrative cost allowance cap. The provision says it "may include." Had the legislature wanted to force all such costs to be paid from the administrative allowance, it could have been so written. Moreover, 34177(b) provides the meaning of "administrative cost allowance," but does not state that it applies to state mandates. 34177(b) is designed to address the SA's costs of winding down its affairs, but does not necessarily include the state mandated costs of providing additional legal support. Accordingly, legal services to the OB should not be characterized as an administrative expense subject to the administrative cost allowance cap.

## **7. Item 90 – Accounting/Audit Support – Due Diligence Reviews**

**A. Summary of Dispute:** We disagree that this item should be subject to the administrative cost allowance cap and we believe the law is being applied incorrectly.

**B. Background:** AB1484 requires an auditor to be hired, subject to county approval, to perform a due diligence review. The SA hired an auditor, which was approved by the County of San Diego, in compliance with the state's requirement set forth in 34179.5(a).

**C. Justification:** Health & Safety Code section 34179.5 imposes a state mandate that the SA hire an auditor to perform a due diligence review. 34179.5 does not identify what source of funds must be used to pay for such audit. Health & Safety Code section 34177(b) provides the meaning of "administrative cost allowance" but does not state that it applies to state mandates. 34177(b) is designed to address the SA's costs of winding down its affairs, but does not state that it includes the state mandated costs of providing auditor support. Accordingly, audit services to the SA for the due diligence reviews should not be subject to the administrative cost allowance cap.

## **8. Item 101 – General Property Management**

**A. Summary of Dispute:** We disagree that this item should be subject to the administrative cost allowance cap and we believe the law is being applied incorrectly.

**B. Background:** The CDC-RDA owned a variety of real estate assets including historically designated properties that require on going management and maintenance to keep them in working order. Without this work the properties would fall into disrepair and lose their value. The Public Works Department of the City of National City has historically provided general property management and maintenance services for the CDC-RDA assets in a cost efficient manner.

**C. Justification:** These expenses fall under the "costs of maintaining assets prior to disposition" provision of HSC section 34171 (d) (1) (F) and as such, are not administrative in nature. The Successor Agency believes that it would be financially prudent to continue utilizing the services of the National City Public Works Department to maintain the CDC-RDA assets.

## **9. Item 144 – Contract for Legal Services**

**A. Summary of Dispute:** We disagree that this item should be subject to the administrative cost allowance cap and we believe the law is being applied incorrectly.

**B. Background:** This item includes litigation expenses related to the obligations of the SA. Health & Safety Code section 34171(b) allows such expenses to be paid outside of the administrative cost allowance cap.

**C. Justification:** Health and Safety Code section 34171(b) provides that litigation expenses related to obligations are excluded from the administrative cost allowance. As this item is for the litigation expenses related to the SA seeking funds to meet its obligations, this item should not be subject to the administrative cost allowance.

**10. Apparent Error for Item #31.** In the DOF letter there is a reference to Item #31 relating to general legal representation being considered an administrative expense. Item #31 is related to a project cost and not a legal expense. It is assumed that is an error.

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**Agency Contact Information**

Name: Brad Raulston

Name:

Title: Executive Director

Title:

Phone: 619-336-4250

Phone:

Email: braulston@nationalcityca.gov

Email:

Date: 10/12/12

Date:

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**Department of Finance Local Government Unit Use Only**REQUEST TO MEET AND CONFER DATE: ☐ APPROVED ☐ DENIED

REQUEST APPROVED/DENIED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

MEET AND CONFER DATE/TIME/LOCATION: \_\_\_\_\_

MEET AND CONFER SESSION CONFIRMED: ☐ YES DATE CONFIRMED: \_\_\_\_\_DENIAL NOTICE PROVIDED ☐ YES DATE AGENCY NOTIFIED: \_\_\_\_\_

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Form DF-MC (Revised 9/10/12)